

## REMARKS

Claims 1-38 are present in the above-captioned application and have been subjected to restriction under 35 U.S.C. § 121. Specifically, the Official Action avers that the following inventions are present in the claims:

Group I, Claims 1, 2, and 4-38, drawn to an endoscopic treatment system comprising a clamping and lifting member, a tissue retained member, a ligating member, and a resecting member, classified in class 600, subclass 114; and

Group II, Claim 3, drawn to an endoscopic treatment system comprising a treatment aid, a receiving member, and arm members, classified in class 600, subclass 104.

It is the Examiner's position that the inventions listed as Groups I and II are distinct from each other.

In response to the Examiner's requirement for restriction, Applicants elect to prosecute the subject matter of Group I, Claims 1, 2, and 4-38 (claims 7, 16, 20, and 30 being canceled by the present Preliminary Amendment). However, Applicants reserve the right under 35 U.S.C. § 121 to file one or more divisional applications directed to the non-elected subject matter in this application.

Furthermore, it is respectfully requested that this Preliminary Amendment be entered in the above-identified application prior to examination.

By means of the present Preliminary Amendment, claims 7, 16, 20, and 30 have been canceled and the claims have been amended to clarify the same. Furthermore, new claims 39 and 40 have been added by way of the present Preliminary Amendment. New claims 39 and 40 belong to elected Group I and Applicants respectfully request continued prosecution of the same along with elected claims 1, 2, and 4-38. New claims 39 and 40 are

fully supported in the original disclosure. Thus, no new matter has been entered into the disclosure by way of the addition of new claims 39 and 40.

In view of the foregoing, an examination on the merits of the elected claims, at an early date, is earnestly solicited.

Respectfully submitted,

Thomas Spinelli  
Registration No. 39,533

Scully, Scott, Murphy & Presser  
400 Garden City Plaza, Suite 300  
Garden City, New York 11530  
(516) 742-4343  
TS/cm